Supreme Court, U.S.
FILED

98 343 AUG 24 1998

OFFICE OF THE CLERK

NO. _____

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 1997

PHILLIP N. NORLAND, on behalf of himself and all others similarly situated,

Petitioner.

v.

GRINNELL MUTUAL REINSURANCE COMPANY, individually and as representative of other auto insurance companies issuing policies which discriminate on rates as a result of the application of §516B.3, the Iowa Code and IOWA INSURANCE INSTITUTE, Amicus Curiae,

Respondents.

PETITION FOR WRIT OF CERTIORARI TO THE IOWA SUPREME COURT

PETITION FOR WRITE OF CERTIORARI

Phillip N. Norland, pro se
88 8th Street North
Northwood, IA, 50459
Phone: 515-324-1442

25 pp

QUESTION PRESENTED

Are the equal protection provisions of the United States Constitution in Amendment XIV, Section 1, violated by the Classification in Section 516B.3, of the Iowa Code, which provides that "The commissioner [of the Department of Insurance] shall require that insurance companies transacting business in this state not consider speeding violations * * * after May 12, 1987, which are for speeding violations for ten miles per hour or less over the legal speed limit in speed zones that have a legal speed limit equal to or greater than thirty-five miles per hour but not greater than fifty-five miles per hour for the purpose of establishing rates for motor vehicle insurance charged by the insurer, and shall require that insurance companies not cancel or refuse to renew any such policy for such violations. In any twelve-month period, this section applies only to the first two such violations which occur."

PARTIES TO THE PROCEEDING

The parties to the proceeding in the Iowa Supreme Court are those in the caption.

Because this Petition draws the constitutionality of a State statute into question, 28 U.S.C. § 2403(b) may apply, and service of the Petition will be made on the Attorney General of the State of Iowa.

TABLE OF CONTENTS

	Page
QUESTION PRESENTED	i
PARTIES TO THE PROCEEDING	ii
TABLE OF AUTHORITIES	iv
OPINION BELOW	1
BASIS FOR JURISDICTION	1
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	1
STATEMENT OF THE CASE	2
REASONS FOR GRANTING THE WRIT	3
CONCLUSION	9
APPENDIX	APP. 1

TABLE OF AUTHORITIES

Page

CASES

Bell's Gap R. Co. v. Pennsylvania, 134 U.S. 232, 237,..... 4
Bierkamp v. Rogers, 293 N.W.2d 575 (Iowa 1980) 4
Chicago I. & L. R. Co. v. Hackett, 228 U.S. 559 10
El Paso & N. R. Co. v. Guiterrez, 215 U.S. 87 9
Federal Land Bank of Omaha v. Arnold, 426 N.W.2d 153 6
Franklin v. Jonco Aircraft Corporation, 346 U.S. 868 10
Hartford Steam Boiler Inspection & Ins. Co., v. Harrison, 301 U.S. 459 ..... 3, 9
Louisville Gas & Electric Co. v. Coleman, 277 U.S. 32 4
Loving v. Commonwealth of Virginia, 388 U.S. 1 4
United States v. Carmack, 319 U.S. 230 5

CONSTITUTIONAL PROVISION

United States Constitution, Amendment XIV, Section 1 1

STATUTES

23 U.S.C. §109(a) 1, 7
Iowa Code §516B.3 ..... 2, 8, 9
Iowa Code §321.285 ..... 2, 7, 8
Iowa Code §805.8(2)(g) 2, 8

OTHER AUTHORITIES

Ballentines Law Dictionary 5
16 Am Jur 2d Constitutional Law §256, ... 10

PETITION FOR WRIT OF CERTIORARI TO THE IOWA SUPREME COURT

OPINION BELOW

Petitioner respectfully prays that a writ of certiorari issue to review the final judgment and opinion of the Supreme Court of Iowa entered in this action on May 28, 1998.

The decision is published in 578 N.W.2nd 239.. It is reprinted in the Appendix hereto, beginning at page APP. 1.

BASIS FOR JURISDICTION

The final judgment of the Supreme Court of Iowa was entered on May 28, 1998. This Court has jurisdiction to review the judgment of the Supreme Court of Iowa pursuant to 28 U.S.C. §1257.

CONSTITUIONAL AND STATUTORY PROVISIONS INVOLVED

United States Constitution, Amendment XIV, Section 1.

. . . No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny tto any person within its jurisdiction the equal protection of the laws.

23 U.S.C. §109 (a) IN GENERAL. The Secretary shall ensure that the plans and specifications for each proposed highway project under this chapter provide for a facility that will - (1) Adequately serve the existing and planned future traffic of the highway in a manner that is conducive to safety, durability and economy of maintenance. . . .

Iowa Code §516B.3; MINOR TRAFFIC VIOLATIONS NOT CONSIDERED IN ESTABLISHING RATES.

The commissioner shall require that insurance companies transacting business in this state not consider speeding violations . . . after May 12, 1987, which are for speeding violations for ten miles per hour or less over the legal speed limit in speed zones that have a legal speed limit equal to or greater than thirty-five miles per hour but not greater than fifty-five miles per hour for the purpose of establishing rates for motor vehicle insurance charged by the insurer, and shall require that insurance companies not cancel or refuse to renew any such policy for such violations. In any twellve-month period, this section applies only to the first two such violations which occur.

IOWA CODE §321.285, set out beginning at APP. 6.

IOWA CODE §805.8(2)(g), set out beginning at APP. 8.

STATEMENT OF THE CASE

The Supreme Court of Iowa filed its Judgment in this case on May 18, 1998. The judgment upheld, against challenge, the constitutionality of the classification in Code of Iowa §516B.3.

The constitutionality was raised in the Petition filed in the Iowa District Court, stating: "That the classification in said statute, as enacted by the General Assembly of the State of Iowa, and as applied by the Iowa Department of Transportation and the Iowa Department of Insurance, is unconstitutional as being an unjustly discriminatory classification which is essentially arbitrary and unreasonable, and bears no reasonable or rational relation to conceivable legislative purposes, and thereby violates Amendment XIV to the Constitution of the United States, . "

The Judgment of the Iowa Court acknowledged the

constitutional challenge. APP 2.

The ultimate decision of the Iowa Court is found at APP. 6, and holds: "Since the legislature could reasonably have believed speeding violations in 35-55 mph speed zones were less dangerous than violations in other speed zones, the legislature could have concluded only the former should be excluded when determining rates."

The classification is patently illogical, arbitrary, unreasonable and capricious and should be found unconstitutional.

REASONS FOR GRANTING THE WRIT

This case questions the constitutionality of a statutory classification which is the only one of its kind in the several states of the United States.

The defendant below acknowledged, through discovery, that no other state had this particular classification. APP 9.

A handful of states have prohibited motor vehicle insurance rates from being raised for violations of speed limits, but in each case that prohibition referred to limited speeding violations on interstate highways, which had a speed limit over 55 mph.

The uniqueness of the classification requires consideration be granted to this question.

> "Discriminations of an unusual character especially suggest careful consideration to determine whether they are obnoxious to the constitutional provision. . . . Discriminations are not to be supported by mere fanciful conjecture, and cannot stand as reasonable if they offend the plain standards of common sense." *Hartford Steam Boiler Inspection & Ins. Co., v. Harrison,* 301 U.S. 459.

"Classes, especially as are of an unusual character unknown to the practice of our governments might be

obnoxious to the constitutional provision." *Bell's Gap R. Co. v. Pennsylvania,* 134 U.S. 232, 237.

The Iowa Supreme Court in *Bierkamp v. Rogers,* 293 N.W.2nd 575, 581 (Iowa 1980) recognized that principle in holding that "presence or absence of similar legislation in other states is a factor in determining whether a rational basis for a distinction exists."

Although plaintiff's Brief in the Iowa Court quoted that admonition, unfortunately, the Court failed to discuss that principle in any manner in its decision finding a rational basis for the questioned classification.

The analysis of constitutional questions involving legislative classifications is well settled.

> ". . . it may be said generally that the equal protection clause means that the rights of all persons must rest upon the same rule in similar circumstances. . . . and that it applies to the exercise of all the powers of the state which affect the individual or his property, . . . It does not, however, forbid classification; and the power of the state to classify . . . is of wide range and flexibility, provided always, that the classification 'must be reasonable, not arbitrary, and must rest upon some ground of difference having a fair and reasonable relation to the object of the legislation, so that all persons similarly circumstanced shall be treated alike.' . . . That is to say, *mere* difference is not enough; the attempted classification 'must always rest upon some difference which bears a reasonable and just relation to the act in respect to which the classification is proposed, and can never by made arbitrarily and without any such basis." *Louisville Gas & Electric Co., v. Coleman,* 277 U.S. 32; *Loving v. Commonwealth of Virginia,* 388 U.S. 1.

The purpose of the questioned legislation in this case as found in its "title" was to prevent insurance companies

from unfairly using "minor" speeding violations in establishing motor vehicle insurance rates. That objective was salutary and, obviously, made necessary by the practice of motor vehicle insurance companies of using single speeding violations as an excuse for raising the insurance rates for those violators. The legitimacy of that objective was acknowledged by defendant below, and found in the Iowa Supreme Court decision as being a legitimate legislative goal, and is not in issue here.

However, when the prohibition was extended only to "minor" violations in 35-55 mph zones, that classification exceeded the bounds of reason and was purely arbitrary and capricious.

Defendant below acknowledged, through written interrogatory, APP 10, that no published or un-published writings existed, at the time of the enactment of the questioned classification, that "concluded or tended to support a conclusion that two or more speeding violations of ten miles per hour or less per twelve month period for an unlimited number of such periods, are less dangerous to the Iowa traveling public, or pose lower insurance risks, than single speeding violations of 10 mph or less in other speed zones would be.

Without such supporting research, the adoption of the classification was the epitome of arbitrariness, which is defined in Ballentine's Law Dictionary as

> "according to notion or whim rather than according to law. Despotic; without reason. Fixed or arrived at through exercise of will or by caprice, without consideration or adjustment with reference to principles, circumstances or significance", citing *United States v. Carmack*, 319 U.S. 230.

In evaluating the reasons for the classification regarding a claim that the distinction drawn is both arbitrary

and unreasonable, the court will consider matters of common knowledge and common report and the history of the times. *Federal Land Bank of Omaha v. Arnold,* 426 N.W.2d 153, 157, (Iowa 1988).

The legislators could not reasonably have made the finding ascribed to them by the Iowa Court [that they could have reasonably believed speeding violations in 35-55 mph speed zones are less dangerous than violations in other speed zones] if they had been paying attention to the news reports of accidents in Iowa. The petitioner has reviewed all of the issues of the Des Moines Register, Iowa's only statewide newspaper, for the full calendar year of 1986, the year before the adoption of the questioned classification. [The search consisted of a review of the front page to see if there were any extraordinary accidents reported there, and then in the column headed "Dateline Iowa", which, in some instances was not found during the quick review made.] The review found reports of 166 deaths caused by motor vehicle accident on the streets and highways of Iowa. Three (3) of them were reported as occurring on interstate highways; 141of them were reported as occurring on state-numbered highways and county roads (where the probable speed limit was 55 mph), and 22 of them were reported as occurring on city streets (it should be noted that it was not possible to determine from those reports what the speed limit was at the scene of the accident; so it may be possible that some of those deaths occurred at places where the speed limit was 35 mph or over.) Of those deaths, 2% were reported as having occurred on interstate highways; 85% were reported as having occurred on state highway-county roads, and 13% were reported as having occurred on city streets.

These figures of common knowledge, available to the legislature at the time of adoption of the questioned classification, conclusively show that the most dangerous Iowa speed zone is in the 35-55 range that the Iowa Court

held that the legislature could reasonably have found less dangerous! The figures confirm the position that the classification is unreasonable as well as arbitrary.

To validate the convincing nature of those figures, the petitioner also reviewed the issues of the Des Moines Register from August 1, 1997, to July 15, 1998 that were available in the local library. That review found reports of 221 motor vehicle deaths; 14 (6%) were reported as occurring on interstate highways (now with a 65 mph limit); 28 (13%) were reported as occurring on city streets (again, speed zones not determinable from the printed reports), and 179 were reported as occurring on state highways and county roads (where the speed limits are almost always 55 mph). Even if all the "city" deaths occurred in speed zones under 35 mph, that would mean that 81% of the deaths occurred in speed zones which the Iowa Supreme Court held could "reasonably" have been "less dangerous" than over 55 and under 35 zones.

These figures show that the basic nature of Iowa roads has not changed, and the rigid safety features of the Interstate highways, mandated by 23 U.S.C.§109(a), even at 65 mph, are still demonstrably safer than 35-55 mph zones.

Inconsistency of Iowa speed zone legislation also militates to a finding of arbitrariness and unreasonableness in the questioned classification. The second sentence of Iowa Code §321.285(6), APP 8, which was added as of May 16, 1996, allows the department [of transportation] to establish a speed limit of 65 mph on "certain divided, multilaned highways". Surely that is legislative recognition that a highway, simply because of its "divided, multilaned" character (without the controlled access of the interstate highways which is a major contributor to their safety superiority) is inherently safer even at 65 mph than the 55 mph allowed on "regular" two-lane roads. To suggest any other reason for this amendment to the speed laws would be to ascribe to the legislature a blatant disregard for the safety of the Iowa

motoring public.

The diametric difference between that amendment and the questioned classification in 516B.3 raises the question: In which case was the legislature acting "reasonably"? It cannot be both ways!

The Iowa Court, at APP 5, states that "Distinguishing between violations which occur in lower and higher speed zones is consistent with the fact the legislature has established a graduated system of speed limits as well as a graduated set of penalties. *See* Iowa Code §§321.285, 805(2)(g)." To the contrary, a careful examination of those code sections actually illustrates another inconsistency which demonstrates the unreasonable character of the questioned classification, because, in fact, the fine prescribed for speeding 10 mph or under over the limit is exactly the same for the several speed zones. App. 8-9. The fact that the questioned classification in Iowa Code §516B.3 allows the insurance penalty in addition to the fine for those violations which occur in the speed zones which the motor vehicle accident death statistics indicate are the safer zones solidifies the argument that that classification is arbitrary and unreasonable.

The Iowa Court decision raises another question bearing on the unreasonableness and arbitrariness of the 516B.3 classification: that is, is it reasonable to believe that an automobile operator who drives 65 mph in a 55 mph speed zone is posing less risk to his/her fellow travelers than the operator driving 66 mph in a 65 mph zone, or driving 26 mph in a 25 mph zone?

Add to that basic premise the possible circumstances surrounding those possible violations which range from driving 5 mph over the 65 mph limit on a rural Georgia interstate highway, framed by trees both along the right side of the highway and in the median, late at night when no other vehicles were visible to the driver until the officer appeared from behind the foliage in the median (as happened to

Petitioner), or 5 mph over a 25 mph limit on a deserted village street late at night, then comparing them to driving 65 mph in busy, rush hour traffic in any Iowa locale in a 55 mph zone road.

Petiitioner believes that suggesting the latter poses "less danger" to the traveling public than the former is ludicrous, and indisputably demonstrates the failure of the classification to meet the common sense standard of *Hartford*, id.

Then add the fact that the driver going 65 mph in the 55 mph zone during rush hour could have, at the time of this writing, 22 such violations without having his/her automobile insurance premiums affected, as compared to the single violation on the deserted 25 mph street or 65 mph interstate highway, takes the suggestion that such a driver poses "less danger" to the traveling public to new heights of unbelievability. Only in Iowa is this result made possible by state legislation! Unreasonable? Arbitrary? Certainly so!

Does patent unfairness of the result demonstrate the unreasonableness and capriciousness of the classification? It would certainly seem so. That unfairness is indisputably demonstrated by the fact that Petitioner has been paying $196.41 (APP 10) in additional annual insurance premium because of his single violation, when someone with up to 22 similar violations in 35-55 mph zones would not be paying any additional auto insurance premium. Again, all caused by the unreasonable, arbitrary and capricious nature of the classification in Iowa Code §516B.3.

CONCLUSION

For the reasons stated, this Court should summarily reverse the decision of the Supreme Court of Iowa, and find that the questioned classification is unconstitutional.

Whenever a statute contains unobjectionable provisions separable from those found to be unconstitutional,

it is the duty of the Court so to declare and to maintain the act insofar as it is valid. *El Paso & N.R. Co., v. Guiterrez,* 215 U.S. 87.

The arbitrary classification, being unconstitutional, in legal contemplation is as inoperative as if it had never been passed. *16 Am Jur 2d Constitutional Law §256,* citing *Chicago, I. & L. R. Co. v. Hackett,* 228 U.S. 559. Thus, all persons in Iowa who have been paying higher auto insurance rates because of the obnoxious classification should have those excess rates refunded.

Summary reversal is appropriate because of the patent unreasonableness and capriciousness of the classification. *Franklin v. Jonco Aircraft Corporation,* 346 U.S. 868.

Upon reversal, the Iowa Courts should be instructed to certify this action as a class action; to order that the excess auto insurance premiums collected by reason of the unconstitutionality of the classification be refunded or credited to those overcharged; and to provide for reasonable compensation to petitioner for the result.

Phillip N. Norland, pro se
88 8th St. N.
Northwood, IA, 50459
515-324-1442

APP. 1

IN THE SUPREME COURT OF IOWA

No. 120/96-1968

Filed May 28, 1998

PHILLIP N. NORLAND, II

Appellant

vs.

GRINNELL MUTUAL REINSURANCE COMPANY, Individually and as Representative of other Auto Insurance Companies,

Appellee

Appeal from the Iowa District Court for Worth County, M.D. Seiser, Senior Judge.

On appeal from the dismissal of his action, the appellant claims the district court erred in finding he did not have standing to challenge the constitutionality of Iowa Code section 516B.3 (1) (1995) and in finding there was a rational basis for the statute. AFFIRMED.

Phillip N. Norland, Northwood, pro se.

Theodore T. Duffield of Patterson, Lorentzen, Duffield, Timmons, Irish, Becker & Ordway, L.L.P., Des Moines, for appellee.

Fred M. Haskins of Patterson Law Firm, Des Moines for amicus curiae Iowa Insurance Institute.

Considered by McGiverin, C.J., and Larson, Lavorato, Andreason and Ternus, JJ.

PER CURIAM.

The plaintiff, Phillip Norland, had automobile insurance with the defendant, Grinnell Mutual Reinsurance Company (Grinnell). Through its Grinnell Select Insurance Company Elite Program, Grinnell offered lower insurance rates to drivers who had no at-fault accidents or moving violations within the previous four years. Norland received insurance through this select program. However, his

coverage was not renewed when Grinnell determined that he was disqualified because of a speeding conviction he had received for speeding less than 10 mph over the limit in a 65 mph speed zone. The speeding conviction did not disqualify Norland from obtaining other coverage from Grinnell at a higher rate but did disqualify him from the select program.

In June, 1996, Norland commenced an action against Grinnell challenging the constitutionality of Iowa Code section 516B.3 (1) (1995). [1] He claimed the statute violated the equal protection provisions of the federal and state constitutions. U.S. Const. Amend. XIV; Iowa Const. Art.I, §6. Norland argued section 516.b3(1) contained an arbitrary and unreasonable discriminatory classification of speeding violations which resulted in Grinnell and other companies establishing insurance rates that were unfairly discriminatory in violation of Iowa Code section 515F.4. Grinnell filed an answer denying Norland's claims. The Iowa Insurance Institute (Institute) appeared as amicus curiae in support of Grinnell's position.

Norland filed a motion for summary judgment. The district court entered a ruling denying the motion and dismissing the action. The court concluded it had no jurisdiction because Norland's speeding violation had

---

[1] Iowa Code §516B.3(1)(1995) prohibits insurers from considering certain speeding violations when establishing rates. The statute provides in relevant part:

> The commissioner shall require than insurance companies transacting business in this state not consider speeding violations....on or after May 12, 1987, which are for speeding violations for ten miles per hour or less over the legal speed limit in speed zones that have a legal speed limit equal to or greater than thirty-five miler per hour but not greater than fifty-five milers per hour for the purpose of establishing rates for motor vehicle insurance charged by the insurer and shall require that insurance companies not cancel or refuse any such policy for such violations. In any twelve month period, this section applies only to the first two such violations which occur.

occurred in a 65 (not a 35-55) mph speed zone and Norland lacked standing to challenge the statute. The court further determined that even if it reached the merits of Norland's claim there was a rational basis for the classification and the statute was constitutional. Norland has appealed.

When constitutional issues are implicated, we consider the totality of the circumstances under a de novo review standard. *See Lumbermens Mut. Cas. Co. v. Department of Revenue & Fin.*, 564 N.W.2d 431, 434 (Iowa 1997). Summary judgment is appropriate when no genuine issue of material fact exists and the moving party is entitled to judgment as a matter of law. Iowa R.Civ.P. 237©. The parties point to no disputed facts, so resolution by way of summary judgment was appropriate. *See Lumbermens*, 564 N.W.2d at 434.

Litigants cannot challenge the constitutionality of a statute unless they can show they have been injured by it. *Lewis v. Iowa Dist. Ct.*, 555 N.W.2d 216, 218 (Iowa 1996), *cert. denied*, ___U.S.___, 117 S.Ct. 1553, 137 L.Ed.2d 702 (1997). Initially it appears Norland has not been injured by the statute since his speeding violation occurred in a 65 mph speed zone and by definition the statute does not apply to him. However, he contends he has standing because he is not seeking to have the entire statute stricken, only the classification which limits the application of the law to those who speed in a 35-55 mph speed zone. He reasons that if the classification is stricken insurers will not be allowed to consider speeding violations of 10 miles or less regardless of the posted limit and his speeding violation would not have disqualified him from receiving the preferred insurance rates.

We assume, without deciding, that Norland has standing to assert an equal protection claim. We nevertheless reject his claim and find section 516B.3 does not violate equal protection.

"Equal protection requires that people who are similarly

situated be treated similarly." *Kelly v. State,* 525 N.W.2d 409, 411 (Iowa 1994). In scrutinizing the constitutionality of section 516B.3, we apply a rational basis analysis, there being no claim that the statutory classification in question is suspect or involves fundamental rights. *See Duntz v. Zeimet,* 478 N.W.2d 635, 636 (Iowa 1991). As long as the statutory classification is not patently arbitrary and bears a rational relationship to a governmental interest, Norland's constitutional objection must fail. *Id.* A statute is presumed to be constitutional. *Kelly,* 525 N.W.2d at 411. A plaintiff bears a heavy burden in proving that a statute is unconstitutional and must negate every reasonable basis upon which the classification may be sustained. *See Bierkamp v. Rogers,* 293 N.W.2d 577, 579-80 (Iowa 1980) Our scrutiny of a challenged statute is the same under both the United States and Iowa constitutions. *Kelly,* 525 N.W.2d at 411.

The legislature has wide discretion in deciding what classifications to include in a statute. *See Cedar Mem'l Park Cemetery Ass'n v. Personnel Assoc.,* 178 N.W.2d 343, 350 (Iowa 1970). The court accords considerable deference to the judgment of the legislature. *Bierkamp,* 293 N.W.2d at 581. A classification does not deny equal protection simply because it results in some inequality. *Redmond v. Carter,* 247 N.W.2d 268, 271 (Iowa 1976). The practical problems of government permit rough accommodations. *Id.*

Norland contends the 35-55 mph classification is unreasonable and arbitrary, and in support of this position he points to the fact that during discovery neither Grinnell nor the Institute was able to produce any publication which established that speeding violations of 10 miles or less in 35-55 mph speed zones pose less risk than similar violations in other speed zones. He claims that if these parties do not know of any evidentiary support for the classification then "it seem obvious the legislature had no such objective data to support the classification when it was adopted."

Norland erroneously assumes the burden of proof is on the defendant to justify the classification. In fact, it is he who bears the "heavy burden" to prove there is no rational basis for the statute. *See Federal Land Bank v. Arnold*, 426 N.W.2d 153, 156 (Iowa 1988); *Bierkamp*, 293 N.W.2d at 579-80. Nothing in the law suggests the existence of supporting "objective data" is necessary in order for a classification to withstand an equal protection challenge. In fact, we have repeatedly stated that we will uphold a classification if *any* state of facts can be conceived to justify it. *See, e.g., McMahon v. Iowa Dep't of Transp.*, 522 N.W.2d 51, 57 (Iowa 1994); *Federal Land Bank*, 426 N.W.2d at 156; *Redmond*, 247 N.W.2d at 271-72. In deciding this appeal we only have to determine whether Norland has negated "every conceivable basis which may support the classification." *See McMahon*, 522 N.W.2d at 57. He has not.

Section 516B.3 was adopted as part of the same legislation approving an increase in the interstate highway speed limit to 65 mph. 1987 Iowa Acts ch. 120 §2 (codified at Iowa Code §321.285(8) (1989)). In deciding to limit the application of section 516B.3 to only 35-55 mph speed zones, the legislature could have believed that minor speeding infractions within those speed limits were less dangerous than similar violations in higher speed zones. It is reasonable to believe the impact from a collision in a higher speed zone would result in greater property damage and injuries. Likewise the legislature could reasonably have assumed that speeding violations, in minor violations of less than 10 mph, pose a greater risk in posted speed zones of less than 35 mph because of the prevalence of children and pedestrians typically present in school and residential areas.

Distinguishing between violations which occur in lower and higher speed zones is consistent with the fact the legislature has established a graduated system of speed limits as well as a graduated set of penalties. *See* Iowa Code

§§321.285, 805(2)(g). Furthermore, the legislature follows a similar classification (34-56) with respect to whether the Department of Transportation can consider minor speeding violations for the purpose of a license suspension. *See* Iowa Code §321.210.

When applying the rational basis test to an equal protection challenge we first examine the legitimacy of the end to be achieved and then we scrutinize the means used to achieve that end. *Federal Land Bank*, 426 N.W.2d at 156. Norland does not dispute the legitimacy of the legislature's goal of holding down insurance rates by prohibiting insurers from considering minor speeding infractions. He only disputes the means the means the legislature used to attain that goal. Since the legislature could reasonably have believed speeding violations in 35-55 mph speed zones are less dangerous than violations in other speed zones, the legislature could have concluded only the former should be excluded when determining insurance rates. That the legislature did not go as far as Norland desires does not make the classification in 516B.3 arbitrary. *See Duntz*, 478 N.W.2d at 637. There is a rational basis for the classification, and we affirm the district court's dismissal of Norland's action.

AFFIRMED.

This opinion shall be published.

IOWA CODE , §321.285 Speed restrictions.

Any person driving a motor vehicle on a highway shall drive the same at a careful and prudent speed not greater than nor less than is reasonable and proper, having due regard to the traffic, surface, and width of the highway and of any other conditions then existing, and no person shall drive any vehicle upon a highway at a speed greater than will permit the person to bring it to a stop within the assured clear distance ahead, such driver having the right to assume, however, that all persons using said highway will observe the law.

The following shall be the lawful speed except as provided by this section, or except as posted pursuant to sections 262.68, 321.236, subsection 5, section 321.288, subsection 6, sections 321.289, 321.290, 321.293, 321.295, and 461A.36, and any speed in excess thereof shall be unlawful:

1. Twenty miles per hour in any business district.

2. Twenty-five miles per hour in any residence or school district.

3. Forty-five miles per hour in any suburban district. Each school district as defined in subsection 70 of section 321.1 shall be marked by distinctive signs as provided by the current manual of uniform traffic control devices adopted by the department and placed on the highway at the limits of such school district.

4. Notwithstanding any other speed restrictions, the speed limit for all vehicular traffic shall be fifty-five miles per hour.

5. Reasonable and proper, but not greater than fifty-five miles per hour at any time between sunrise and sunset, and not greater than fifty miles per hour at any time between sunset and sunrise, on secondary roads unless such roads are surfaced with concrete or asphalt or a combination of both, in which case the speed limits shall be the same as provided in subsection 4 of this section. When the board of supervisors of any county shall determine upon the basis of an engineering and traffic investigation that the speed limit on any secondary road is greater than is reasonable and proper under the conditions found to exist at any intersection or other place or upon any part of a secondary road, the board shall determine and declare a reasonable and proper speed limit at the intersection or other part of the secondary road. The speed limits as determined by the board of supervisors shall be effective when appropriate signs giving notice of the speed

limits are erected by the board of supervisors at the intersection or other place or part of the highway.

6. Notwithstanding any other speed restrictions, the speed limit for all vehicular traffic on fully controlled-access, divided, multilaned highways including the national system of interstate highways is sixty-five miles per hour. The department may establish a speed limit of sixty-five miles per hour on certain divided, multilaned highways. However, the department or cities with the approval of the department may establish a lower speed limit upon such highways located within the corporate limits of a city. For the purposes of this subsection, a fully controlled-access highway is a highway that gives preference to through traffic by providing access connections with selected public roads only and by prohibiting crossings at grade or direct private driveway connections. A minimum speed may be established by the department on the highways referred to in this subsection if warranted by engineering and traffic investigations. .

805.8 Scheduled violations.

1. Application. Except as otherwise indicated, violations of sections of the Code specified in this section are scheduled violations, and the scheduled fine for each of those violations is as provided in this section, whether the violation is of state law or of a county or city ordinance. The criminal penalty surcharge required by section 911.2 shall be added to the scheduled fine.

2. Traffic violations.

g. (1) For excessive speed violations when not more than five miles per hour in excess of the limit under section 321.236, subsections 5 and 11, sections 321.285, and 461A.36, the scheduled fine is ten dollars.

(2) Excessive speed in conjunction with a violation of section 321.278 is not a scheduled violation, whatever the amount of excess speed.

(3) For excessive speed violations when in excess of the limit under section 321.236, subsections 5 and 11, sections 321.285, and 461A.36 by more than five and not more than ten miles per hour the fine is twenty dollars, by more than ten and not more than fifteen miles per hour the fine is thirty dollars, by more than fifteen and not more than twenty miles per hour the fine is forty dollars, and by more than twenty miles per hour the fine is forty dollars plus two dollars for each mile per hour of excessive speed over twenty miles per hour over the limit.

(4) Notwithstanding subparagraphs (1) and (3), for excessive speed violations in speed zones greater than fifty-five miles per hour when in excess of the limit by five miles per hour or less the fine is ten dollars, by more than five and not more than ten miles per hour the fine is twenty dollars, by more than ten and not more than fifteen miles per hour the fine is forty dollars, by more than fifteen and not more than twenty miles per hour the fine is sixty dollars, and by more than twenty miles per hour the fine is sixty dollars plus two dollars for each mile per hour of excessive speed over twenty miles per hour over the limit.

PLAINTIFF'S REQUEST FOR ADMISSION (to defendant) with RESPONSE:

NO. 1: Admit that no other state of the United States has the same classification provision for requiring insurance companies to NOT consider speeding violations as are found in Sec. 516B.3 of the Iowa Code.

Response: The defendant cannot at this time provide an unqualified admission or denial to the Plaintiff's request for an admission that "no other state of the United States" has the same classification provisions for requiring insurance companies to NOT consider speeding violations as are found in Sec. 516B.3 of the Iowa Code. The Defendant will,

however, admit that at this time the Defendant has no knowledge of any other state having the same provision and intends to make further investigation at the conclusion of which the Defendant will provide an unqualified admission or denial.

(NOTE: No further answer to this request for admission has been received from Defendant to this date.)

INTERROGATORIES TO DEFENDANT:

2. State the annual auto insurance premium being paid by Plaintiff for the auto insurance presently being provided by you.

ANSWER: $798.58

3. State the annual auto insurance premium which would have been charged Plaintiff for identical coverage if his application to Grinnell Select had not been denied.

ANSWER: $602.17

8. State the Title, Author, and date of publication of any published writing which concludes, or tends to support a conclusion, that two or less speeding violations of ten miles per hour or less per twelve month period for an unlimited number of such periods, in speed zones of 35-55 miles per hour are less dangerous to the Iowa traveling public, or pose lower insurance risks, than single speeding violations of ten miles per hour or less in other speed zones would be. . . .

ANSWER: No such publication is known.

10. State the Title, Author, and date of publication of any UN-published writing which concludes, or tends to support a conclusion, that two or less speeding violations of ten miles per hour or less per twelve month period for an unlimited number of such periods, in speed zones of 35-55 miles per hour are less dangerous to the Iowa traveling public, or pose lower insurance risks, than single speeding violations of ten miles per hour or less in other speed zones would be. . .

ANSWER: No such publication is known.